



# PUBLIC NOTICE

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## **WIRELESS TELECOMMUNICATIONS BUREAU REMINDS UTILITY POLE OWNERS OF THEIR OBLIGATIONS TO PROVIDE WIRELESS TELECOMMUNICATIONS PROVIDERS WITH ACCESS TO UTILITY POLES AT REASONABLE RATES**

The Wireless Telecommunications Bureau reiterates the obligation to provide wireless telecommunications providers with access to utility poles at reasonable rates pursuant to section 224 of the Communications Act, 47 U.S.C. § 224. In *Implementation of Section 703(e) of the Telecommunications Act of 1996; Amendment of the Commission's Rule and Policies Governing Pole Attachments, Report and Order*, 13 FCC Rcd 6777, 6798-99 ¶¶ 39-41 (1998), the Commission determined that wireless telecommunications providers are entitled to the benefits and protections of section 224 for the attachment to utility poles of antennas or antenna clusters and associated equipment. The Supreme Court affirmed this determination in *National Cable Telecommunications Ass'n v. Gulf Power Co.*, 534 U.S. 327 (2002). Providing wireless carriers with access to existing utility poles facilitates the deployment of cell sites to improve the coverage and reliability of their wireless networks in a cost-efficient and environmentally friendly manner. Such deployment will promote public safety, enable wireless carriers to better provide telecommunications and broadband services, and increase competition and consumer welfare in these markets.

Recently, wireless carriers have alleged that they have been denied access to utility poles for the placement of wireless antennas on pole tops. While we take no position on the merits of any individual case, we take this opportunity to reiterate that the Commission declined, in *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Order on Reconsideration*, 14 FCC Rcd 18049, 18074 ¶ 72 (1999), to establish a presumption that space above what has traditionally been referred to as "communications space" on a pole may be reserved for utility use only. Thus, the only recognized limits to access for antenna placement by wireless telecommunications carriers are those contained in the statute: "where there is insufficient capacity, or for reasons of safety, reliability, and generally applicable engineering purposes." 47 U.S.C. § 224(f)(2).

In addition, section 224 and the Commission's rules do not allow pole access fees to be levied against wireless carriers in addition to the statutory pole rental rate, which is based on the space occupied by the attachment and the number of attaching entities on the pole, together with reasonable make-ready fees. Such overcharges or denial of access for wireless pole attachments may have serious anticompetitive effects on telecommunications competition. Wireless telecommunications providers are encouraged to bring such matters to the attention of the Commission or the appropriate state regulatory authorities that have asserted jurisdiction over pole attachments.

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